

**BEFORE
THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of:)

Divan, Inc.)
T/a Café Divan)

Application for a Retailer's)
Class CR - new)
at premises)

1834 Wisconsin Avenue, NW)
Washington, DC 20007)

Case No. 50120-01/012P

**Patricia Scolaro, President, Burleith Citizens Association
Peter Pulsifer, Chair, Advisory Neighborhood Commission (ANC) 2E
Karen Tammany Cruse, Acting Chair, ABC Committee, Citizens Association of
Georgetown, Protestants**

Cavit Ozturk, Applicant

**BEFORE: RODERIC L. WOODSON, ESQUIRE, CHAIR
VERA ABBOTT, MEMBER
CHARLES BURGER, MEMBER
LAURIE COLLINS, MEMBER
JUDY MOY, MEMBER
ELLEN OPPER-WEINER, ESQUIRE, MEMBER
AUDREY THOMPSON, MEMBER**

ORDER ON WITHDRAWN PROTEST

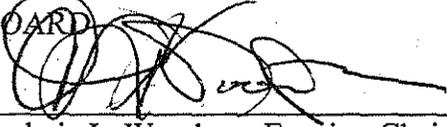
This matter, having been protested, was scheduled for a roll call hearing on February 28, 2001, in accordance with D.C. Code Section 25-115(c)(5) (1999 Supp.), providing for the protestants to be heard. The Board received a timely protest letter from Patricia Scolaro, President, Burleith Citizens Association, dated February 11, 2001; Peter Pulsifer, Chair, ANC 2E, dated February 5, 2001; and Karen Tammany Cruse, Acting Chair, ABC Committee, The Citizens Association of Georgetown, dated February 16, 2001. However, by letter, dated February 26, 2001, the application was withdrawn by applicant's attorney, Dimitri P. Mallios.

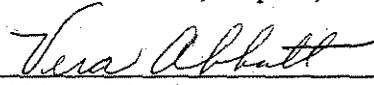
Divan, Inc.
T/a Café Devan
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Accordingly, it is this 28th day of March 2001, ORDERED that:

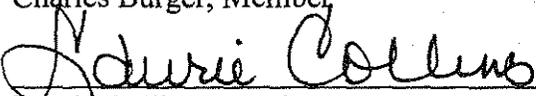
1. The application of Divan, Inc., t/a Café Devan, for a retailer's class CR license (new) at premises 1834 Wisconsin Avenue, NW, Washington, DC 20007, be, and the same hereby, is **WITHDRAWN**; and
2. Copies of this Order shall be sent to the Protestant and the Applicant.

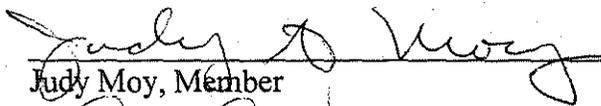
DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL
BOARD


Roderic L. Woodson, Esquire, Chair

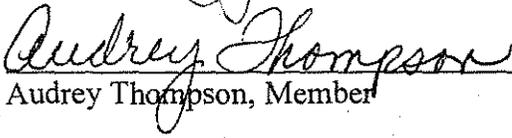

Vera Abbott, Member

Charles Burger, Member


Laurie Collins, Member


Judy Moy, Member


Ellen Opper-Weiner, Esquire, Member


Audrey Thompson, Member

AGREEMENT

THIS AGREEMENT ("Agreement") is made by Cafe Divan, Inc., a District of Columbia corporation, t/a Cafe Divan (the "Applicant") with Advisory Neighborhood Commission 2E ("the ANC") and the Citizens Association of Georgetown ("CAG").

WHEREAS, the Applicant has applied for a new Class "CR" alcoholic beverage license for the property located at 1834 Wisconsin Avenue, N.W., ABC Application No. 50120, which is pending before the District of Columbia Alcoholic Beverage Control Board (ABC Board); and

WHEREAS, the ANC represents the residents and taxpayers within its boundaries and wishes to insure that no establishment that sells alcoholic beverages will adversely affect the health, safety, and quality of life in the surrounding community; and

WHEREAS, CAG is a citizens association incorporated under the laws of the District of Columbia which represents the interests of the residents of Georgetown; and

WHEREAS, the Applicant is seeking written approval from the ANC and CAG of the Application; and

WHEREAS, in order to secure the aforementioned approval, Applicant has agreed to enter into this Agreement commemorating certain understandings regarding the Applicant's operational plans;

NOW THEREFORE, in consideration of the agreements set forth herein, the parties hereto mutually agree as follows:

1. Nature of operation. The Applicant shall at all times operate as a bona-fide restaurant for the primary purpose of food consumption. Alcoholic beverages shall be served only in conjunction with the service of meals. The kitchen shall be open and hot food items shall be available at all times when the establishment is open. The Applicant presently serves primarily Turkish cuisine; no substantial change in the type of food will be made without prior consultation with the ANC.
2. No sales to minors. The Applicant recognizes that the ANC is particularly concerned about the close proximity of the establishment to Hardy Middle School, a DC public school, Fillmore Arts Center, a DC public schools program serving children from many public schools in the area, and Jelleff Boys and Girls Club, a membership recreational and educational facility serving many children and young adults. Accordingly, the establishment will not serve alcohol within one hour of the regular operating hours of Hardy Middle School, presently 8:35 a.m. to 3:15 p.m. The Applicant will not target advertising to minors, either in content or through distribution. The Applicant shall strictly enforce the underage drinking laws of the District of Columbia by requiring valid official identification showing age and cooperating with ABC inspectors and the police department in enforcing the law.
3. Occupancy and safety. The establishment shall have a maximum capacity of 70 persons. This limit shall be prominently posted and shall not be exceeded. The Applicant shall ensure that a clear passageway is maintained at all times for the safe egress of occupants in case of fire or other emergency.
4. Hours of Operation. The hours of operation shall be 11:00 a.m.–10:30 p.m. Monday through Thursday, 11:00 a.m.–11:00 p.m. Friday, and 9:00 a.m.–11:00 p.m. Saturday and Sunday. The foregoing notwithstanding, the Applicant reserves the right to change its hours of operation as may be prudent in the Applicant's reasonable business judgment; however, no extension of opening or closing hours shall alter the restriction of hours for service of alcohol in provision #2 of this Agreement, and no such change shall be made without at least thirty (30) days prior written notice to the ANC. No extension in closing hours shall be made without review by the ANC and the ABC Board under the established procedures for a substantial change in operation.

5. Entertainment. There shall be no live entertainment or outdoor music. The Applicant may offer soft background recorded music conducive to a pleasant dining experience inside the premises.

6. Trash removal. The Applicant shall not permit trash, garbage, or litter to be placed outside the premises in unprotected bags, cans, or containers and shall insure that all legal refuse containers are emptied by a professional garbage truck service at least twice a week. The Applicant shall ensure that no part of the premises harbors rats or other vermin, and shall notify the ANC if any such harborage in neighboring properties is affecting the Applicant's operations.

7. Advertising. The Applicant shall not place advertising signs on public space, except for signs that have received the required approvals by the Commission of Fine Arts, the Department of Consumer and Regulatory Affairs, or other appropriate agency.

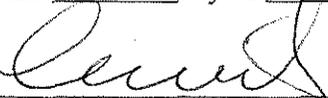
8. The parties agree that the above provisions are conditions of the license and any failure of Applicant to adhere to the foregoing commitments would constitute grounds for the ANC or CAG to petition the ABC Board for issuance of an order to show cause pursuant to 23 D.C.M.R. §1513.5. Prior to so petitioning, however, the petitioner shall notify the Applicant in writing by first class mail of any perceived violations and afford the Applicant at least seven (7) calendar days in which to address or rectify the perceived violation. Nevertheless, if there are repeated complaints of similar nature, any such complaint may serve as grounds for action after the notification period for the first such perceived violation.

9. In consideration of, and in reliance upon, the foregoing agreements made by the Applicant, the ANC and CAG agree to provide Applicant with written approval of the Application by no later than the day following the next scheduled ANC meeting after execution of this agreement.

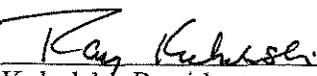
10. This written agreement constitutes the only agreement between the parties and may be modified only by the written agreement of both parties.

IN WITNESS THEREOF, the parties have affixed hereunto their hands and seals on the year and the day indicated below their signature.

Executed this 3rd day of December, 2002.

BY: 
Cavit Ozturk, President
Cafe Divan, Inc t/a Cafe Divan

BY: 
Peter Pulsifer, Chairman
ADVISORY NEIGHBORHOOD COMMISSION 2E

BY: 
Ray Kukulska, President
CITIZENS ASSOCIATION OF GEORGETOWN